

REMARKS

The Office Action, mailed March 18, 2008, has now been received and its contents carefully noted. Claims 1-10 are now pending. Claims 1-10 are rejected. The Office Action duly noted that claims 2-4, 7-9 and 10/6 would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112, second paragraph and to include all of the limitations of the base claim and any intervening claims. In addition, claim 6 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. § 112, second paragraph.

By this response, claim 1 has been cancelled. All of the claimed features of claim 1 have been incorporated into claim 2 and which therefore now is in allowable form. Claims 3-5 and 10 have been amended accordingly to depend from claim 2. Claims 2-10 have been amended to overcome the 112, second paragraph rejection. Thus, independent claim 6 is also in allowable form. Support may be found in the specification and the claims as originally filed. No statutory new matter has been added. Therefore, reconsideration and entry of the claims, as amended, are respectfully requested.

Certified Copy of Foreign Reference

A certified copy of Japanese Application No. 2002-202962, from which the present application claims the benefit of priority under 35 U.S.C. § 119(b) was filed on July 9, 2003. A copy of the date stamped postcard showing proof of filing on July 9, 2003, a copy of the Claim For Priority, a copy of the first page of the certified copy of JP 2002-2002962 are submitted with this Response. Proper acknowledgement of Applicants' priority claim is solicited.

Information Disclosure Statement

With regards to the Information Disclosure Statements filed on April 25, 2007 and November 28, 2007, the following are concise explanations of the relevance of each document listed not in the English language:

April 25, 2007 IDS – JP 2000-282178

Para [0002] discloses an inner ring, an outer ring and rolling elements made of high carbon chrome steel (especially SUJ2 steel) formed into a predetermined shape and thereafter, subjected to quenching and tempering to obtain a residual austenite of 10 volume % and a hardness of about HRC 62 in the surface.

April 25, 2007 IDS – JP 2000-310307

Para [0021] and Fig. 1 disclose a toroidal continuously variable transmission that includes: a plurality of discs each having a concavely curved raceway portion opposing each other; and a roller rotatably sandwiched between the raceway portion of the discs for transmitting torque between the discs by a traction force between the circumference of the roller and the raceway portion of each of the discs. The discs and the roller are formed of a heat-resistant bearing steel containing the following: C: 0.8-1.5 wt%; Si: 0.5-2.0 wt %; Mn: 0.3-2.0 wt %; Cr: 1.3-1.98 wt %; Mo: 0.3-1.0 wt %; a total of 1.0 wt % or more of Si and Mo; and the balance being iron and unavoidable impurities.

April 25, 2007 IDS – JP 2001-50282

Paras [0005-0006] disclose a rolling bearing having a hardness of HRC 54 to 64 and a residual austenite of 5 % or less to obtain an effect for preventing generation of the white layer.

November 28, 2007 – JP11-80896

It is known from the claim(s) of this document that a residual austenite falls within the range of 7 to 15 wt %.

November 28, 2007 – JP 2001-15252

Paras [0002-0003] of this document disclose a residual austenite that falls within the range of 7 to 15 wt %.

In view of the foregoing explanations, entry and full consideration of each of the April 25, 2007 and November 28, 2007 Information Disclosure Statements are solicited. The Examiner is requested to provide acknowledgement in the next Office Action.

Specification

The Abstract has been amended to remove the phrase “according to the present invention” in lines 1-2.

35 USC 112 Rejection

Claims 1-10 stand rejected under 3 U.S.C., second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as their invention. Particularly, the claims recite the word “type”. Applicants take note of this rejection and accordingly remove “type” from the claims in order to overcome the indefiniteness rejection.

35 U.S.C. 103 Rejection

Claims 1 and 5 stand rejected as being unpatentable over Ono in view of Watanabe. The rejection is moot for claim 1. The rejection of claim 5 is traversed.


Applicants respectfully urge that the rejection of claim 5 be withdrawn in view of the claim amendments presented herein. Particularly, amended claim 5 is dependent from claim 2. The Office Action objected to claim 2 as depending upon a rejected base claim but would be allowable if rewritten to incorporate all of the limitations of the base claim. Claim 2, as presently amended, incorporates all of the claimed limitations of claim 1. Because claim 2 now is in allowable form, claim 5 should be found allowable for depending from claim 2. Reconsideration and withdrawal of this rejection is respectfully solicited.

CONCLUSION

All of the stated grounds of objection and rejections have been properly traversed, accommodated, or rendered moot. Therefore, it is respectfully requested that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action and, as such, the present application is allowable. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, in the event that additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. 1.136(a) and any fees required therefore are hereby authorized to be charged to **Deposit Account No. 02-4300, Attorney Docket No. 033737M027.**

Respectfully submitted,
SMITH, GAMBRELL & RUSSELL, LLP

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June 18, 2008

Postcard receipt: Please apply mail room stamp and return to:
SMITH, GAMBRELL & RUSSELL, L.L.P.

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|------------------|---|---------------------------------------|
| Attorney Dkt No. | : | 33737M027 |
| Applicant | : | Hisashi Harada |
| Serial No.: | : | To Be Assigned |
| Filed | : | Herewith |
| For | : | TOROIDAL-TYPE CONTINUOUSLY VARIABLE |
| | : | TRANSMISSION AND METHOD FOR PRODUCING |
| | : | TORQUE TRANSMITTING MEMBER THEREOF |



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New patent application – 22 pages of specification and 4 sheets of formal
Drawings; Executed Declaration/Power of Attorney; Assignment Recordation
Cover Sheet and Executed Assignment; Claim for Priority with certified copy
Of application; check \$1070.00

MAM:kms

July 9, 2003

Attorney Docket
33737M027



P A T E N T

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Hisashi Harada, et al.
Serial No. : To Be Assigned Art Unit : To Be Assigned
Filed : Herewith Examiner : To Be Assigned
For : TOROIDAL-TYPE CONTINUOUSLY VARIABLE
 : TRANSMISSION AND METHOD FOR PRODUCING
 : TORQUE TRANSMITTING MEMBER THEREOF

CLAIM FOR PRIORITY UNDER 35 U.S.C. §119

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir :

The above-referenced patent application claims priority benefit from the foreign patent application listed below:

Application No. 2002-202962, filed in JAPAN on July 11, 2002

In support of the claim for priority, attached is a certified copy of the priority application.

Respectfully submitted,
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Date : July 9, 2003

日本国特許庁
JAPAN PATENT OFFICE

別紙添付の書類に記載されている事項は下記の出願書類に記載されている事項と同一であることを証明する。

This is to certify that the annexed is a true copy of the following application as filed with this Office

出願年月日
Date of Application:

2002年 7月11日

出願番号
Application Number:

特願2002-202962

ST.10/C]:

[JP2002-202962]

出願人
Applicant(s):

光洋精工株式会社

2003年 5月30日

特許庁長官
Commissioner,
Japan Patent Office

太田信一

